

**UNITED STATES DISTRICT COURT**  
for the

Western District of North Carolina

United States of America v. HOMER ORLANDO HORTON Date of Previous Judgment: <u>August 20, 1998</u> (Use Date of Last Amended Judgment if Applicable)	) ) ) ) ) ) )	Case No: <u>3:97CR184-12</u> USM No: <u>13188-058</u> <u>Keith M. Stroud</u> Defendant's Attorney
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**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

**I. COURT DETERMINATION OF GUIDELINE RANGE** (Prior to Any Departures)

Previous Offense Level: <u>42</u>	Amended Offense Level: <u>40</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>360</u> to <u>life</u> months	Amended Guideline Range: <u>360</u> to <u>life</u> months

**II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE**

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): While the application of Amendment 706 results in a reduction in the Base or Total Offense Levels, the revised guideline range remains unchanged. Defendant therefore is ineligible for a sentence reduction per U.S.S.G. § 1B1.10(a)(2)(B).

**III. ADDITIONAL COMMENTS**

Except as provided above, all provisions of the judgment dated August 20, 1998 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: December 29, 2008

Effective Date: \_\_\_\_\_  
(if different from order date)

  
 Frank D. Whitney  
 United States District Judge

